THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE STATUTE CENTENARY CELEBRATION (2020)

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I. HISTORICAL TRAJECTORY

The Statute of the International Court of Justice (ICJ) counted on the historical antecedent of the Statute of its predecessor Court, the Permanent Court of International Justice (PCIJ). The PCIJ was created under the auspices of the League of Nations pursuant to Article 14 of the Covenant of the League of Nations[1]. The Council of the League of Nations had been entrusted with the project for the establishment of the PCIJ. In early 1920, an Advisory Committee of Jurists was appointed, to prepare and submit a report concerning the establishment of the PCIJ.

In June-July 1920, a draft scheme was prepared by the Advisory Committee, and then submitted to the Council of the League of Nations, which, upon its examination, laid it before the first Assembly of the League of Nations. The III Committee of the first Assembly, after studying the matter, submitted, in December 1920, a revised draft to the League´s Assembly, which adopted it unanimously; that revised draft thus became the Statute of the PCIJ.

Although the League of Nations had taken the initiative of the creation of the PCIJ, this latter was not integrated into the League. The PCIJ operated from 15.02.1922 (when it held its inaugural sitting) until 1940. Many treaties and conventions conferred jurisdiction upon the PCIJ. In that period, the PCIJ settled 29 contentious cases and issued 27 advisory opinions. It was only in 1946 that the new ICJ was established[2], with the adoption of its Statute at the San Francisco Conference on 26.06.1945.

Promptly after the adoption of the Statute of the ICJ, and before the closing down of the PCIJ, there was an expression of the new to secure the continuity between them in the international administration of justice[3]. In effect, the ICJ Statute relied upon the Statute of the predecessor PCIJ; yet, a process of redrafting was undertaken, - with the necessary adjustments in the light of the hi storical experience[4], - first by the U.N. Committee of Jurists, and then by the IV Committee of the United Nations Conference on International Organization (UNCIO) in San Francisco in 1945.

An important innovation introduced by the ICJ Statute was its structural interrelationship with the United Nations Charter. The ICJ was incorporated into the United Nations, its Statute forming an integral part of the U.N. Charter. Distinctly, in the case of the predecessor PCIJ, the relationship between the latter and the then existing procedures of other (arbitral) organs of dispute-settlement was stated in Article 1 of the PCIJ Statute[5].

By contrast, the ICJ Statute is annexed to the U.N. Charter itself. It sets forth the structure of the Court, its powers and competences, and the applicable law; the ICJ's interrelationship with the United Nations is enhanced, pursuant to Article 92 of the U.N. Charter, which states that:

> The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Thus, while Article 92 of the ICJ Statute makes reference to the PCIJ Statute, the intimate relationship between the ICJ and the United Nations is clearly defined under Article 92 of the U.N. Charter, characterizing the ICJ as "the principal judicial organ of the United Nations". This tight connection is also

evidenced by Article 93 of the Charter, which states that all member-States of the United Nations are *ipso facto* Parties to the Statute of the ICJ. Another provision which has a direct bearing on the interrelationship between the ICJ and the United Nations is Article 94 of the U.N. Charter, which provides that each member-State of the United Nations "undertakes to comply with the decision of the International Court of Justice in any case to which it is a party".

These provisions show that, although the ICJ Statute relied on the PCIJ Statute, it also innovated, in particular as to the interrelationship between the World Court and the United Nations. With the establishment of the ICJ, much was learned from the experience of the PCIJ, and also from its jurisprudence (*infra*). In April 1946, with the formal dissolution of the PCIJ, the ICJ came into operation.

II. BASIS OF INTERNATIONAL JURISDICTION

The ICJ, throughout its history, has defined its role in the judicial settlement of international disputes, as the judicial organ of the legal order of the international community as a whole, and not only of the contending parties appearing before it[6]. In recent years, the ICJ has been called to pronounce upon the most diverse areas of international law, in cases originating from all the regions of the world. They have been submitted to the ICJ either through Applications Instituting Proceedings - on the basis of the optional clause, or else of compromissory clauses - or through Special Agreements/*compromis*.

It is for the ICJ itself to decide on questions regarding its jurisdiction: according to Article 36(6), in the event of a dispute as to whether the ICJ has jurisdiction in a given case, the matter shall be settled by a decision of the Court. A way whereby the ICJ may have jurisdiction is through the declarations recognizing as compulsory the jurisdiction of the Court (optional clause), which take the form of a declaration of its acceptance, deposited by the State concerned with the U.N. Secretary-General[7]. These declarations are provided for in Article 36(2) of the Statute[8].

The ICJ Statute provides for the optional clause (Article 36(2)), as well as for compromissory clauses (Article 36(1)). As to these latter, Article 36(1) provides the basis for the Court's contentious jurisdiction on "all cases which the parties refer to it and all matters specifically provided for in the Charter of the United Nations or in treaties and conventions in force". This latter basis of jurisdiction is thus found in clauses of treaties and conventions that refer to the ICJ for the adjudication of disputes[9] (compromissory clauses). Cases are normally lodged with the ICJ by way of notification to the Registry of an Application Instituting Proceedings, or Special Agreement/*compromis* concluded by the Parties to that effect.

Much has been written on the basis of jurisdiction of the ICJ. Difficulties have been experienced in the long path towards compulsory jurisdiction[10]. Throughout the last decades, advances could here have been much greater if State practice would not have undermined the original purpose which inspired the creation of the mechanism of the *optional clause* of compulsory jurisdiction (of the PCIJ and the ICJ), that is, the submission of political interests to Law, rather than the acceptance of compulsory jurisdiction in the way one freely wishes (with restrictions).

Only in this way would one, as originally envisaged, achieve greater development in the realization of justice at international level on the basis of compulsory jurisdiction. The foundation of compulsory jurisdiction lies, ultimately, in the confidence in the *rule of law* at international level[11], amidst the awareness that we face a *jus necessarium*, and no longer an unsatisfactory *jus voluntarium*. The very nature of a court of justice (beyond traditional arbitration) calls for compulsory jurisdiction[12]. Soon renewed hopes to that effect were expressed in compromissory clauses enshrined into multilateral and bilateral treaties[13].

These hopes have grown in recent years, with the increasing recourse to compromissory clauses as basis of jurisdiction[14]. This development has been seen as a reassuring one, in the sense of diminishing the probability of procedural incidents, such as the recourse to exceptions or objections of admissibility of applications instituting proceedings, or of the jurisdiction itself of the ICJ. Around 128 multilateral conventions and 166 bilateral treaties contain clauses providing for the recourse to the ICJ for the settlement of disputes on its interpretation or application, - the so-called *compromissory clauses*.

In any case, the ICJ retains at least the power and duty to address *motu proprio* the issue of

jurisdiction[15]. The time has come to overcome definitively the regrettable lack of automatism of the international jurisdiction, which, despite all difficulties, has become reality in respect of some international tribunals[16]. In sum, there is a diversity of legal bases to submit a contentious case to the knowledge and decision of the ICJ. There are examples, in recent years, of recourse to each of them, fostering the judicial settlement of international disputes. Contentious cases have, in recent years, concerned States from all continents (the Americas, Europe, Africa, Asia and Oceania), highlighting the role of the ICJ as the principal judicial organ of the whole system of the United Nations.

III. CONTENTIOUS CASES: SHORTCOMINGS OF THE STRICT INTER-STATE DIMENSION

From the start, the jurisdiction of the ICJ (and of its predecessor, the PCIJ) has been faced with a limitation *ratione personae*: only States may submit contentious cases to it (Article 34(1) of its Statute). At the time of the drafting and adoption, in 1920, of the PCIJ Statute, an option was made for a strictly inter-State dimension for its exercise of the international judicial function in contentious matters. Likewise, the draftsmen of the ICJ Statute in 1945, did not find that the time was ripe to grant access to the ICJ to subjects of rights other than States (such as individuals).

Yet, this did not mean that a definitive answer had been found to the question at issue. It should not pass unnoticed that the very advent of permanent international jurisdiction at the beginning of the XXth century, before the creation of the PCIJ, was *not* marked by a purely inter-State outlook of the international *contentieux*[17]. From 1945 until the present time, the ICJ has been facing the aforementioned limitation, imposed by Article 34(1) of its Statute, whereby "only States may be Parties before the Court".

Looking back in time, the question of access of individuals to international justice[18], with procedural equality, already drew the attention of legal doctrine ever since the adoption of the PCIJ Statute in 1920, and has continued to do so, throughout ten decades. Individuals and groups of individuals began to have access to other international judicial instances, reserving the PCIJ, and subsequently the ICJ, only for disputes between States.

Yet, the dogmatic position originally taken in 1920, on the occasion of the preparation and adoption of its Statute, did not hinder the PCIJ to occupy itself promptly of cases pertaining to the treatment of minorities and inhabitants of cities or territories with a juridical statute of their own. In considerations developed in the examination of such matters, the PCIJ went well beyond the inter-State dimension, taking into account the position of individuals themselves[19].

Ever since, the artificiality of that dimension became noticeable and acknowledged, already at an early stage of the case-law of the PCIJ. The option in 1920 (endorsed in 1945) for an inter-State mechanism for judicial settlement of contentious cases, was made, as I have recalled,

> (...) not by an intrinsic necessity, nor because it was the sole manner to proceed, but rather and only to give expression to the prevailing viewpoint amongst the members of the Advisory Committee of Jurists in charge of drafting the Statute of the PCIJ. (…) The fact that the Advisory Commitee of Jurists did not consider that the time was ripe for granting access, to the PCJI, to subjects of law other than the States (e.g., individuals) did not mean a definitive answer to the question. (...) Already in the *travaux préparatoires* of the Statute of the PCIJ, the minority position marked presence, of those who favoured the access to the old Hague Court not only of States, but also of other subjects of law, including individuals. This was not the position which prevailed, but the ideal already marked presence, in that epoch, almost one century ago[20].

The dogmatic position of the PCIJ Statute passed on to the ICJ Statute. Once again, the exclusively inter-State character of the *contentieux* before the ICJ has not appeared satisfactory at all. The artificiality of the exclusively inter-State outlook has been criticized, time and time again, in expert writing, which has recalled that "nowadays a very considerable part of international law" (e.g., law-making treaties) "directly affects individuals", and the effect of Article 34(1) of the ICJ Statute has been "to insulate" the Court, for remaining attached to "notions about international law structure of the 1920s"[21].

In recent years, there have been several cases wherein one of the predominant elements was precisely the concrete situations of directly affected individuals or groups of individuals, and not merely abstract issues of exclusive interest of the litigating States their relations *inter se*[22]. The same can be said of the two last Advisory Opinions of the Court, on the *Declaration of Independence of Kosovo* (2010), on a *Judgment of the ILO Administrative Tribunal upon a Complaint Filed against the IFAD* (2012), and on *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* (of 2019), respectively.

At the height of these new challenges and expectations, the ICJ has been lately taking into account, in its decisions, the situation not only of States, but also of peoples, of individuals or groups of individuals alike. Even if the mechanism of dispute-settlement by the ICJ, according to its Statute remains strictly an inter-State one, the *substance* of those disputes or issues brought before it pertains also to the human person, as those cases and Opinions, and the Court´s reasoning therein, clearly show. The strictly inter-State outlook has an ideological content, is a product of its time, a time long past.

As to contentious cases, there are other jurisdictional and procedural issues that deserve particular attention, namely: *intervention* of States in cases before the Court (Articles 62 and 63 of the Statute); requests for interpretation and revision[23] (Articles 60 and 61 of the ICJ Statute); and indication or ordering of provisional measures of protection (Article 41 of its Statute), so as to prevent or avoid irreparable harm.

IV. THE EXPANDED ADVISORY JURISDICTION

It was with the PCIJ that, for the first time, an international tribunal was attributed the advisory function, - surrounded as it was by much discussion. Originally conceived to assist the Assembly and the Council of the League of Nations, the PCIJ, making good use of it, ended up by assisting not only those organs, but States as well: among the 27 Advisory Opinions it delivered, 17 of them addressed then existing aspects of disputes between States. It thus contributed to the avoidance of full-blown contentious proceedings, and exercised a preventive function, to the benefit of judicial settlement itself of international disputes[24]. The advisory function, as exercised by the PCIJ, thus contributed also to the progressive development of international law.

The same can be said of the exercise of the advisory function by the ICJ (pursuant to Article 65 of its Statute and Article 96 of the U.N. Charter)[25]. Ever since the advent of the ICJ, the advisory jurisdiction has kept on expanding. While the PCIJ Statute enabled only the League Council and Assembly to request Advisory Opinions, the ICJ Statute has enabled the United Nations main organs (General Assembly, Security Council and ECOSOC) and specialized agencies[26] and others[27] to do so. In effect, the exercise of the advisory function by the ICJ is another aspect that highlights the interconnectedness between the United Nations and the Court itself.

Such interrelationship is demonstrated, at first, by the coupled reading of Article 65 of the ICJ Statute and Article 96 of the U.N. Charter. Secondly, U.N. main organs, such as the General Assembly and the Security Council, are entitled to request an advisory opinion from the ICJ on any legal question[28]. Other U.N. organs or specialized agencies may request an advisory opinion, upon authorization by the General Assembly, on legal questions falling within the scope of their operation or activities (Article 96 of the U.N. Charter).

Advisory Opinions of the ICJ, on their part, can also contribute, and have indeed done so, to the prevalence of the *rule of law* at national and international levels. Some of them have, likewise, contributed to the progressive development of international law (e.g., the ones on *Reparation for Injuries*, 1949; on *Namibia*, 1971; on *Immunity from Legal Process of a Special Rapporteur of the U.N. Commission on Human Rights*, 1999; among others). The ICJ has likewise issued 27 Advisory Opinions to date (beginning of 2020)[29]. Although distinct from the Judgments, given their consultative nature, the Advisory Opinions of the ICJ are endowed with validity, and no State (or other subjects of international law) can in good faith ignore or minimize them.

V. PROJECTION INTO A NEW CENTURY OF OPERATION

The gradual realization of the old ideal of justice at international level[30] has been revitalizing itself, in recent years, with the reassuring creation and operation of the multiple contemporary international tribunals. It was necessary to wait for some decades for the current developments in the realization of international justice to take place, not without difficulties[31], now enriching and enhancing contemporary international law. International legal personality and capacity (not only of States, but also of international organizations and individuals) have indeed been enhanced, and international jurisdiction and responsibility have likewise expanded.

The ICJ, together with other international tribunals, assert and confirm nowadays the benefit to the international community of counting on the adjudication of distinct types of controversies, taking place not only at *inter-State* level, but also at *intra-State* level. This is reassuring, and was foreseen in the U.N. Charter itself, which provides, in Article 95, that U.N. member-States may entrust the settlement of their differences "to other tribunals by virtue of agreements already in existence or which may be concluded in the future". Such reassuring coexistence of international tribunals nowadays invites us to approach their work from the correct perspective of the *justiciables* themselves[32], and brings us closer to their *common mission* of securing the realization of international justice, either at *inter*-State or at *intra*-State level[33].

Access to international justice has reassuringly been enlarged, and the expansion of international jurisdiction has been accompanied by the considerable increase in the number of the *justiciables*, granted access to justice even in circumstances of the utmost adversity, and even defenselessness. Yet, there still remains a long way to go: for example, the issue of *compliance* with judgments and decisions of the ICJ and other contemporary international tribunals is a legitimate concern of all of them[34].

In their continuing operation, the ICJ and other international tribunals have space for judicial creativity; in the interpretation itself - or even in the search - of the applicable law, each international tribunal is free to find the applicable law, independently of the arguments of the contending parties[35] (*juria novit curia*). It should not pass unnoticed that there has lately been a wide thematic diversity in cases lodged with the ICJ, as never before[36]. In my understanding, in solving issues lodged with it, the ICJ is engaged to say what the Law is (*juris dictio*).

Furthermore, there are circumstances when judgments of international tribunals may have repercussions beyond the States parties to a case, when such judgments succeed to give expression to the idea of an *objective* justice. They thus contribute to the evolution of international law itself, and to the *rule of law* at national and international levels. The more international tribunals devote themselves to explaining clearly the foundations of their decisions, the greater their contribution to justice and peace is bound to be[37].

The ICJ has an important role in the peaceful settlement of international disputes and the progressive development of international law[38]. A unique feature of the ICJ Statute is the Court´s role as the principal judicial organ of the United Nations and its close relationship with the latter (cf. *supra*). While much has been developed in the jurisprudence of the Court to date, there is still some room for improvement, in its expanded advisory function of the Court as well as a broader conception of its jurisdiction in contentious matters. The ICJ has a prominent role in the progressive development of international law at the service of the international community as a whole. After all, the evolving international law is not the same as the one when the ICJ was first established, preceded by the PCIJ.

NOTES

1. Article 14 provided that: - "The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly".
2. As the archives of the PCIJ were preserved during the II world war, and as the intention at the time of the creation of the ICJ was for continuity between the PCIJ and the ICJ, the latter could take over the archives of the predecessor Court.
3. M.O. Hudson, "The Twenty-Fourth Year of the World Court", 40 *American Journal of International Law* (1946) pp. 1-52. Although the PCIJ´s active operation had ceased in 1940, its formal closure took place in 1946, and its archives were transferred to the ICJ; M. Fitzmaurice and C.J. Tams, "Introduction", *in* [Various Authors,] *Legacies of the Permanent Court of International Justice* (eds. M. Fitzmaurice, C.J. Tams and P. Merkouris), Leiden, Nijhoff, 2013, p. 2.
4. Besides terminological changes (e.g., to alter the references from League of Nations to the United Nations).
5. In the following terms: the PCIJ would be "in addition to the Court of Arbitration organized by the Conventions of The Hague of 1899 and 1907, and to the special Tribunals of Arbitration to which States are always at liberty to submit their disputes for settlement".
6. G. Abi-Saab, "The International Court as a World Court", in *Fifty Years of the International Court of Justice - Essays in Honour of R. Jennings* (eds. V. Lowe and M. Fitzmaurice), Cambridge, CUP, 1996, p. 7, and cf. pp. 3-16.
7. According to the ICJ's official website, there are nowadays just over 70 declarations deposited with the U.N. Secretary-General.
8. Which provides that: - "The States Parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning: a) the interpretation of a treaty; b) any question of international law; c) the existence of any fact which, if established, would constitute a breach of an international obligation; d) the nature or extent of the reparation to be made for the breach of an international obligation".
9. In this sense, there is another point of connection between the PCIJ and the ICJ: pursuant to Article 37 of the ICJ Statute, when a treaty or convention in force refers a dispute to a tribunal instituted by the League of Nations, or to the PCIJ, the matter shall, as between the Parties to the Statute, be referred to the ICJ.
10. A.A. Cançado Trindade, "Towards Compulsory Jurisdiction: Contemporary International Tribunals and Developments in the International Rule of Law - Part I", *in* XXXVII *Curso de Derecho Internacional Organizado por el Comité Jurídico Interamericano - 2010,* Washington D.C., OAS General Secretariat, 2011, pp. 233-259; A.A. Cançado Trindade, "Towards Compulsory Jurisdiction: Contemporary International Tribunals and Developments in the International Rule of Law - Part II", *in* XXXVIII *Curso de Derecho Internacional Organizado por el Comité Jurídico Interamericano - 2011,* Washington D.C., OAS General Secretariat, 2012, pp. 285-366.
11. Cf., in this sense, C.W. Jenks, *The Prospects of International Adjudication*, London, Stevens, 1964, pp. 101, 117, 757, 762 and 770.
12. Cf., in this sense, B.C.J. Loder, "The Permanent Court of International Justice and Compulsory Jurisdiction", 2 *British Year Book of International Law* (1921-1922) pp. 11-12. And cf., earlier on, likewise, N. Politis, *La justice internationale*, Paris, Libr. Hachette, 1924, pp. 7-255, esp. pp. 193-194 and 249-250.
13. E. Hambro, "Some Observations on the Compulsory Jurisdiction of the International Court of Justice", 25 *British Year Book of International Law* (1948) p. 153.
14. Cf. R. Szafarz, *The Compulsory Jurisdiction of the International Court of Justice*, Dordrecht, Nijhoff, 1993, pp. 4, 31-32, 83 and 86; R.P. Anand, "Enhancing the Acceptability of Compulsory Procedures of International

Dispute Settlement", 5 *Max Planck Yearbook of United Nations Law* (2001) pp. 5-7, 11, 15 and 19.

15. R.C. Lawson, "The Problem of the Compulsory Jurisdiction of the World Court", 46 *American Journal of International Law* (1952) pp. 234 and 238, and cf. pp. 219, 224 and 227.

16. Cf., for examples, A.A. Cançado Trindade, "A Century of International Justice and Prospects for the Future", *in*: A.A. Cançado Trindade and Dean Spielmann, *A Century of International Justice and Prospects for the Future / Rétrospective* d´un siècle de justice *internationale et perspectives d´avenir*, Oisterwijk, Wolf Legal Publs., 2013, pp. 1-28, esp. pp. 13-16.

17. Cf., as to the systems of minorities (including Upper-Silesia) and of territories under mandates, and the systems of petitions of the Islands Aaland and of the Saar and of Danzig, besides the practice of mixed arbitral tribunals and of mixed claims commissions, of the same epoch: J.-C. Witenberg, "La recevabilité des réclamations devant les juridictions internationales", 41 *Recueil des Cours de l´Académie de Droit International de La Haye* (1932), pp. 5-135; J. Stone, "The Legal Nature of Minorities Petition", 12 *British Year Book of International Law* (1931), pp. 76-94; M. Sibert, "Sur la procédure en matière de pétition dans les pays sous mandat et quelques-unes de ses insuffisances", 40 *Revue générale de droit international public* (1933), pp. 257-272; M. St. Korowicz, *Une expérience en Droit international - La protection des minorités de Haute-Silésie,* Paris, Pédone, 1946, pp. 81-174; C.A. Norgaard, *The Position of the Individual in International Law,* Copenhagen, Munksgaard, 1962, pp. 109-128; A.A. Cançado Trindade, "Exhaustion of Local Remedies in International Law Experiments Granting Procedural Status to Individuals in the First Half of the Twentieth Century", 24 *Netherlands International Law Review* (1977), pp. 373-392; and cf. J. Beauté, *Le droit de pétition dans les territoires sous tutelle,* Paris, LGDJ, 1962, pp. 1-256 (already in the U.N. era).

18. Cf. A.A. Cançado Trindade, *The Access of Individuals to International Justice*, Oxford, Oxford University Press, 2011, pp. 1-236.

19. As in, e.g., *inter alia*, the Advisory Opinions on *German Settlers in Poland*, 1923; on *the Jurisdiction of the Courts of Danzig*, 1928; on the *Greco-Bulgarian "Communities"*, 1930; on *Access to German Minority Schools in Upper Silesia*, 1931; on *Treatment of Polish Nationals in Danzig*, 1932; on *Minority Schools in Albania*, 1935); cf. C. Brölmann, "The PCIJ and International Rights of Groups and Individuals", *in Legacies of the Permanent Court of International Justice* (eds. M. Fitzmaurice, C.J. Tams and P. Merkouris), Leiden, Nijhoff, 2013, pp. 123-143.

20. A.A. Cançado Trindade, *Os Tribunais Internacionais e a Realização da Justiça*, 3rd. rev. ed, Belo Horizonte/Brazil, 2019, pp. 13-14.

21. R.Y. Jennings, "The International Court of Justice after Fifty Years", 89 *American Journal of International Law* (1995) p. 504; and cf. also, to the same effect, S. Rosenne, "Reflections on the Position of the Individual in Inter-State Litigation in the International Court of Justice", *in International Arbitration - Liber Amicorum for M. Domke* (ed. P. Sanders), The Hague, Nijhoff, 1967, pp. 249-250, and cf. pp. 242-243; and cf. also, for examples, S. Rosenne, "Lessons of the Past and Needs of the Future - Presentation", *in*: *Increasing the Effectiveness of the International Court of Justice* (1996 Colloquy - eds. C. Peck and R.S. Lee), The Hague, Nijhoff, 1997, pp. 487-488, and cf. pp. 466-492; C. Chinkin, "Increasing the Use and Appeal of the Court - Presentation", *in ibid*., pp. 47-48, 53 and 55-56; A.A. Cançado Trindade, "Le droit international contemporain et la personne humaine", 120 *Revue générale de Droit international public* (2016) n. 3, pp. 497-514.

22. For examples, cf. A.A. Cançado Trindade, "Statute of the International Court of Justice", *in United Nations Library of International Law - Historic Archives*, U.N., N.Y., 2015, pp. 1-21.

23. On revision procedures at the ICJ, cf., e.g., R. Geiss, "Revision Proceedings before the International Court of Justice", 63 *Zeitschrift fur ausländishes* öffentliches *Recht und Völkerrecht* (2003), pp. 167-194.

24. M.G. Samson and D. Guilfoyle, "The Permanent Court of International Justice and the `Invention´ of International Advisory Jurisdiction", *in Legacies of the Permanent Court of International Justice* (eds. M. Fitzmaurice, C.J. Tams and P. Merkouris), Leiden, Nijhoff, 2013, pp. 41-45, 47, 55-57 and 63.

25. Upon the filing of a request for an advisory opinion, the Court makes up a list of States and international organizations which could furnish information on the question before the Court. The ICJ has discretion to decide whether

to give a requested advisory opinion, and it has regularly issued the requested opinions.

26. Such as ILO, FAO, UNESCO, ICAO, IMO, WMO, WHO, WIPO, UNIDO, ITU.

27. Such as IBRD, IMF, IFC, IFAD.

28. According to Article 65 of the ICJ Statute, "[t]he Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request".

29. Other contemporary international tribunals have been endowed with the advisory jurisdiction, and there are examples of frequent use made of it; cf. A.A. Cançado Trindade, "A Century of International Justice and Prospects for the Future", *op. cit. supra* n. (15), p. 13.

30. For a general study, cf., e.g., J. Allain, *A Century of International Adjudication - The Rule of Law and Its Limits*, The Hague, T.M.C. Asser Press, 2000, pp. 1-186.

31. Cf., *inter alia*, e.g., G. Fouda, "La justice internationale et le consentement des États", *in International Justice - Thesaurus Acroasium*, vol. XXVI (ed. K. Koufa), Thessaloniki, Sakkoulas Publs., 1997, pp. 889-891, 896 and 900; D. Momtaz and A.G. Amirhandeh, "The Interaction between International Humanitarian Law and Human Rights Law and the Contribution of the ICJ", *in The ICJ and the Evolution of International Law* (eds. K. Bannelier, Th. Christakis and S. Heathcote), London/N.Y., Routledge, 2012, pp. 256-263.

32. A.A. Cançado Trindade, Évolution du Droit international au droit des gens - L›accès des particuliers à la justice internationale: le regard d›un juge, Paris, Pédone, 2008, pp. 1-187.

33. For a general study, cf. A.A. Cançado Trindade, *Los Tribunales Internacionales Contemporáneos y la Humanización del Derecho Internacional*, Buenos Aires, Ed. Ad-Hoc, 2013, pp. 7-185.

34. The issue encompasses two complementary aspects: measures of domestic law for the execution of international sentences, and mechanisms of monitoring and follow-up, for the supervision of compliance with those judgments and decisions.

35. Cf. M. Cappelletti, *Juízes Legisladores?*, Porto Alegre/Brazil, S.A. Fabris Ed., 1993, pp. 73-75 and 128-129; M.O. Hudson, *International Tribunals - Past and Future*, Washington D.C., Carnegie Endowment for International Peace/Brookings Inst., 1944, pp. 104-105.

36. Among recent cases settled by the ICJ, there are some that have raised questions of the utmost relevance, pertaining to International Humanitarian Law, to the International Law of Human Rights, to International Environmental Law, among other themes. Cf., *inter alia*, e.g., A.A. Cançado Trindade, "La jurisprudence de la Cour Internationale de Justice sur les droits intangibles / The Case-Law of the International Court of Justice on Non-Derogable Rights", *in Droits intangibles et* états *d'exception / Non-Derogable Rights and States of Emergency* (eds. D. Prémont, C. Stenersen and I. Oseredczuk), Bruxelles, Bruylant, 1996, pp. 53-71 and 73-89; R. Goy, *La Cour Internationale de Justice et les droits de l´homme*, Bruxelles, Nemesis/Bruylant, 2002, pp. 7-127; among others.

37. This issue has attracted the attention of juridical circles in the last decades; cf., *inter alia*, e.g., [Various Authors,] *La Sentenza in Europa - Metodo, Tecnica e Stile* (Atti del Convegno Internazionale di Ferrara di 1985), Padova, CEDAM, 1988, pp. 101-126, 217-229 and 529-542. - In my conception, in judgments of international tribunals (also at regional level), the *motifs* and the *dispositif* go together: one cannot separate the decision itself from its foundations, from the reasoning which upholds it. Reason and persuasion permeate the operation of justice, and this goes back to the historical origins of its conception.

38. Cf., generally, H. Lauterpacht, *The Development of International Law by the International Court*, London, Stevens, 1958, pp. 3-400.